IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8680 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE D.H.WAGHELA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

STATE OF GUJARAT

Versus

DADUBHAI DEVAYAT

Appearance:

GOVERNMENT PLEADER for Petitioner

MS YAMINI J DESAI for Respondent No. 1

CORAM : MR.JUSTICE D.H.WAGHELA

Date of decision: 17/10/2000

ORAL JUDGEMENT

#. The petitioner, Range Forest Officer of the State Government, challenges the award of the Labour Court, Junagadh in Ref. (LCJ) No.1061/1990 whereby the respondent- a watchman is ordered to be reinstated with 20% backwages and costs.

#. The learned counsel for the petitioner vehemently argued that the Labour Court was required to frame issues in accordance with the objection raised by the petitioner in its written statement before the Labour Court. It is further submitted that, had such issues been framed, the petitioner could have led evidence suggesting that the petitioner was not an Industry within the meaning and definition of the I.D.Act. It was also submitted that the respondent had left the job on his own accord after being involved in a criminal case.

#. Going through the impugned award, it is clear that a witness has been examined on behalf of the petitioner and there was nothing to prevent the petitioner from leading evidence as regards their pleas in the written statement. The learned counsel has not pointed out any rule requiring the Labour Court to frame issues before the evidence is led. Otherwise, after appreciation of evidence on record the findings of fact to the effect that the respondent had completed 6 years of continuous service and that he was discharged from service without complying with the mandatory provisions of Sec.25F of the I.D.Act are recorded. However, in view of prolonged pendency of reference the respondent is awarded reinstatement with only 20% of backwages. No jurisdictional error or any error apparent on the face of the record requiring interference of this Court in exercise of its power under Article 227 of the Constitution is pointed out and hence the petition is dismissed. Rule is discharged. Stay stands vacated.

kks